

REMARKS**Summary of the Office Action**

Claims 1 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,682,927 to Takahashi et al. ("Takahashi") in view of U.S. Patent No. 3,125,326 to Ericsson ("Ericsson") and further in view of U.S. Patent No. 6,654,894 to Kaminski et al. ("Kaminski").

The Office Action indicated that claims 2, 3, and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 6-11 are allowed.

Summary of the Response to the Office Action

Claims 1-11 are pending for consideration. Claims 1-11 are pending.

The Disposition of the Claims

The Applicants thank the Examiner for her indication that claims 6-11 are allowed and claims 2, 3, and 5 would be allowable if rewritten in independent form.

Rejection under 35 U.S.C. § 103(a)

Claims 1 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Takahashi in view of Ericsson and further in view of Kaminski. Applicants respectfully traverse the rejection.

While Ericsson does disclose a cooling fan provided within a housing, the fan is directly connected to the main power shaft 26 such that it rotates only when the power strap tensioning mechanism 1 is operating, and therefore cannot be turned off independently of the tensioning

mechanism. (col. 2, lines 53-55.) This system is described in the background of the present invention at page 2, lines 3-7 and the deficiencies of such a system are pointed out from page 2, line 7 to page 3, line 9. One reason such a system is not practical is that the motor in the present invention runs only for short periods of time and reverses its rotation quickly – which would cause a fan to draw the same air that was used to cool it before back into the system. The cooling system of Ericsson does not lend itself to control the fan driving control unit that on-off controls the cooling fan based on the interior temperature of the bar binder as recited in claim 1. The only way the fan of Ericsson can be turned on is to operate the device. The only way the fan of Ericsson can be turned off is to stop operating the device.

In addition, Ericsson solves the problem of motor burn-out in a completely different way than the present invention. The device of Ericsson accomplishes that task by “a planetary gear assembly capable, by reason of an attached braking mechanism, of exerting an adjustable predetermined tensioning force through the strap gripping wheel upon the strap while at the same time absorbing any excess force to prevent motor burn-out.”

Takahashi solves the problem of motor burn-out in a completely different way than either Ericsson or the present invention. The philosophy of the Takahashi device is to make the motor as small as possible in order to make it lightweight, but making the motor easy to replace when it inevitably burns out. (col. 1, lines 55-67; col. 2, lines 19-24.) This philosophy is incompatible with either Ericsson or the present invention, both of which solve the problem by preventing the motor from burning out in the first place. The present invention, by adding a cooling fan, fan driving control unit, a temperature detecting device, and comparison device, increases the weight of the tool rather than decreasing weight – the goal of Takahashi. Thus, Takahashi teaches

against the cooling fan and associated controls of the present invention because they add weight to the tool.

Besides coming from a completely different technology than the present invention, Kaminski teaches adjusting the speed of a fan depending on power supply temperature rather than turning the fan on and off as recited in claim 1. Instead, the fan of Kaminski turns on when the computer is turned on regardless of the temperature. (col. 4, lines 6-7.) Kaminski further explains that “the [dual power supply fan control] system can only increase the power supply fan speed.” (col. 2, line 65.) Thus, Kaminski teaches a continuously running fan (as long as the computer is on) contrasted to the on-off controls of the present invention.

As explained above, the philosophies of all three cited patents are very different from that of the invention recited in claim 1. In addition, even assuming combining the prior art would arrive at the invention recited in claim 1 (a contention with which Applicants do not agree), there is no reason to combine the cited art because they are not compatible with each other.

For at least the above reasons, Applicants submit that claims 1-11 are in condition for allowance. Allowance of claims 1-11 is earnestly solicited.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

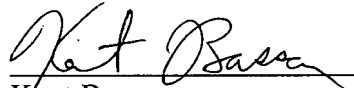
If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: October 19, 2007

By:



Kent Basson

Registration No. 48,125

CUSTOMER NO. 009629

MORGAN, LEWIS & BOCKIUS LLP

1111 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202.739.3000